

REMARKS/ARGUMENTS

In the Office Action dated September 17, 2003 in the parent application (Serial No. 10/281,295), the Examiner rejected independent claims 11, 26 and 29 (as well as others) over the prior art patent to Stone. The Examiner stated that it would have been obvious to one skilled in the art to lay out a ground cover the night before the anticipation of frost (Office Action, section 4).

However, it will be noted that Stone stresses the use of materials in which light absorption is minimized to avoid reduction in light intensity reaching the crop. Col. 2, lines 9-20. Thus, it is clear that Stone contemplates that the horticultural blanket disclosed in that patent be used over an extended period, since the amount of light transmission (either to allow photosynthesis or to allow solar warming of the crops) would not be important if the blanket is placed over the crop merely hours before harvest, e.g., in the night before the dawn of the expected harvest as in the present invention.

Independent claim 11 has been amended to emphasize that the movable cover is placed over the plants "*prior to dawn of a day that harvesting is desired*". Stone's emphasis on the light transmission through his horticultural blanket teaches away from this step, which also appears in independent claim 29.

Regarding the Examiner's comments regarding claim 26 vis-à-vis Stone, it will again be noted that Stone emphasizes that there should be "little, if any, significant reduction in light intensity due to the material" of the horticultural blanket. Stone, col. 2, lines 16-19. It cannot simultaneously be argued that the Stone patent makes it obvious to *limit* the amount of light reaching the plants, as explicitly set forth in claim 26.

The other references cited by the Examiner do not supply the elements or combinations of elements that are lacking in Stone, and accordingly independent claims 11, 26 and 29 as amended (as well as their dependent claims) are believed to be in condition for allowance, notice whereof is requested.

Applicant believes that no additional fees are due and payable at this time. However, the Commissioner is nonetheless authorized hereby to charge any additional fees that may be due, including extension fees, or credit any overpayment, to our Deposit Account No. 08-3038 (Order No. 02510.0013.CNUS01).

Respectfully submitted,

HOWREY SIMON ARNOLD & WHITE, LLP

By

Matthew Rainey
Matthew RAINEY

Reg. No. 32,291

☐ Attorneys for Applicant(s)

☒ Submitted Under 37 CFR § 1.34(a)

525 Market Street – Suite 3600
San Francisco, California 94105-2708
Tel.: (415) 848-4900
Fax: (415) 848-4999

02510.0013.CNUS01
SP-8044005v1

Ser. No. 10/803,742

- 6 -